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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,643	12/02/2003	Norman Goris	N, GORIS 7-7	4532
47396	7590	07/24/2008		
HITT GAINES, PC LSI Corporation PO BOX 832570 RICHARDSON, TX 75083			EXAMINER AGA, SORI A	
			ART UNIT 2619	PAPER NUMBER
			NOTIFICATION DATE 07/24/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@hittgaines.com

Office Action Summary

Application No.

10/725,643

Applicant(s)

GORIS ET AL.

Examiner

SORI A. AGA

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendments and accompanying remarks, filed on 11/15/2007 have been entered and have been carefully considered. Claims 1, 11 and 21 are amended. Claims 1-23 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 5, 6, 8-12, 15,16 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahagi (US 20020102978 A1) (herein after Yahagi) in view of Coombes (US 2004/0203959 A1) (herein after Coombes).

Regarding Claims 1 and 11: Yahagi teaches, in a first embodiment, a controller (network selector) [‘44’ fig. 6] that directs the wireless interface (mobile communication device) [‘41’ fig. 6] to send a request signal (data communication) [0038 line 10] to a controller within a communication center (communication server) [‘50’ fig. 6] associated with three candidate networks [‘21’, ‘22’ and ‘23’ fig. 6] [0038 lines 10-17].

In the same embodiment, Yahagi teaches one of the candidate networks is a wireless network ['21' fig. 6]. However, Yahagi does not teach at least two wireless networks in the same embodiment. However, Yahagi in a second embodiment teaches three candidate wireless networks [0025 lines 1-8 see also fig. 1]. Therefore, it would have been obvious at the time of the invention to include more than one wireless networks in the first embodiment in order to allow the user selectively access a plurality of wireless networks. However, Yahagi does not explicitly teach a quality parameter determined by calculating a time needed for each data transfer. However, Coombes in the same field of endeavor teaches measuring determining) fetch response time (communication quality parameter) [0035 line 18]. The average (calculated) fetch response time is updated for every fetch request (real time calculation unique to each data transfer) [0035 lines 22-23]. Therefore, it would have been obvious at the time of the invention to evaluate candidate networks using average fetch response (communication quality parameter) calculated by real time calculation in order to determine if the candidate networks continually meet certain Quality Of Service requirements.

However, Yahagi does not explicitly teach said calculation is performed in the mobile communication device. However, Coombes in the same field of endeavor teaches average fetch response is measured and updated (calculated) in the pro-fetch controller found within the mobile communication device [0035 lines 17 and 22-23; see also fig. 4 '404']. Therefore, it would have been obvious at the time of the invention to enable the mobile communication device of Yahagi to calculate average fetch response in order to enable

said device determine if the candidate networks meet certain Quality Of Service requirements.

Regarding Claims 2 and 12: where the selection system employs one of the candidate networks; Yahagi teaches, "...Controller 22 directs the wireless interface 21 to establish a connection to the network which is selected..." [0025 lines 11-12]

Claim 5, 15 and 22; the communication device is selected from the given list that is given alternatively. Therefore, examiner discusses one of the choices to show anticipation by the reference.

Yahagi teaches that the communication device is a mobile terminal of cellular phone. [0024 line 5].

Claims 6 and 16 Yahagi in view of Coombes teaches a communication parameter includes response time (time to perform) as discussed regarding claim 1 (see discussion above).

Regarding claims 8 and 18; where the selector employs a display; Yahagi teaches that the device includes a display for indicating the received response signal [0025 lines 8-11]

Claim 9 and 19: Yahagi teaches tariff data (charge rate) is taken into account for evaluating the networks. [0026 line 8]

Claim 10 and 20: Yahagi teaches a multi-network environment allowing the user to receive service without making a manual switchover (automatic) from one network to another [0005 lines 3-5]. Therefore Yahagi anticipates data transfers and evaluation done automatically.

Claim 21: All the limitations of claim 21 are substantially the same as claim 1 except for the keypad and the display. Yahagi in view of Coombes teach all the limitations of claim 1 as discussed above.

Yahagi teaches a User interface '23' including a display and an annunciator for indicating the received response signal to permit the user to select a desired network and enter a command signal [0025 line 8-11;]. Therefore, Yahagi teaches a display and a way permitting the user to enter a command signal.

Claim 22, Yahagi teaches user terminal is a mobile terminal of a phone network (mobile phone) [0024 line 5].

Claim 23: Yahagi teaches a display to allow a user to see and select outcome of said evaluation as discussed regarding claim 22 above.

3. Claims 3,4,13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahagi and Coombes as applied to claims 1, 2, 5,6,8-12, 15,16 and 18- 23 above and further in view of Guilford et al. (US 20020087674 A1) (herein after Guilford).

Claims 3 and 13 alternatively list candidate network types and standards adapted by said candidate networks.

Yahagi does not explicitly teach GSM, UMTS. However, Guilford in the same field of endeavor as Yahagi teaches that candidate networks can be GSM or UMTS [0014 lines 8-10]. It would have been obvious at the time of the invention to make Yahagi's device compatible with said standards in order to have devices that are commercially appealable in view of the fact that said standards are widely used in the Industry.

Claims 4 and 14 alternatively list candidate network types and standards adapted by said candidate networks.

Yahagi does not explicitly teach networks conforming to GPRS, HSCSD or EDGE standards. However, Guilford teaches the candidate networks may employ different technologies such as GPRS or EDGE. [0027 line 2 and 0087 line 4]. It would have been obvious at the time of the invention to make Yahagi's device compatible with said standards in order to have devices that are commercially appealable in view of the fact that said standards are widely used in the Industry.

4. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahagi and Coombes as applied to claims 1, 2, 5,6,8-12, 15,16 and 18- 23 above, and further in view of Michaelis et al. (US 20040009751 A1) (herein after Michaelis).

Claims 7 and 17 include all the limitations of 1 and 11 respectively. Yahagi in view of Coombes teaches all the limitations of claims 1 and 11 as discussed above. However, Yahagi does not explicitly teach communication drops as a quality parameter of communication quality. However, Michaelis teaches lowering the candidate status of a network based on losing of a connection (dropping) [0045 line 6]. Therefore, it would have been obvious at the time of the invention to add droppings as a parameter for selecting networks in order minimize the selection of networks with higher probability of droppings as a serving network.

Response to Arguments

5. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SORI A. AGA whose telephone number is (571)270-1868. The examiner can normally be reached on M-Th 7:30-5:00, F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. A. A./
Examiner, Art Unit 2619

/CHAU T. NGUYEN/
Supervisory Patent Examiner, Art Unit 2619